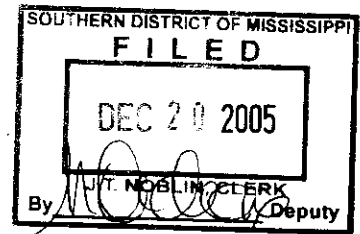


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION



CATHY OSER

PLAINTIFF

V.

CIVIL ACTION NO. 1:02CV378 LTS JMR

FIRST USA CREDIT CARD

DEFENDANT

**MEMORANDUM OPINION AND ORDER GRANTING MOTION TO DISMISS**

The Court has before it a motion to dismiss filed by Defendant First USA Bank (Bank). For the reasons set out below, this motion will be granted, without prejudice to the right of either of the parties to return to this court at the conclusion of their arbitration proceedings should it become necessary for either of them to seek additional relief.

This action was filed in the Circuit Court of Harrison County, Mississippi, on May 2, 2002, and removed to this court on June 18, 2002. On August 20, 2003, I entered an order staying these proceedings pending arbitration. Arbitration proceedings were not instituted until August 15, 2005. Since arbitration proceedings have now been undertaken, this case can be dismissed. I can see no purpose in retaining this action on the Court's active docket while arbitration proceedings are underway.

Accordingly, it is **ORDERED**

That the defendant's motion to dismiss this action [1-17] is hereby **GRANTED**. A judgment of dismissal will be entered. The dismissal of this action will be without prejudice to the right of either party to return to this court in the event it becomes necessary, after the arbitration proceedings have been concluded, to seek additional relief.

**SO ORDERED** this 12<sup>th</sup> day of December, 2005.

*s/ L. T. Senter, Jr.*

L. T. Senter, Jr.  
Senior Judge